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**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Michael Kevin McGee
5095 Lambert Lane
San Diego, CA 92115

Psychological Assistant Registration No. PSB
25328

Respondent.

Case No. W-194

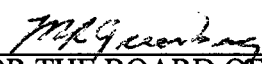
OAH No. L-2000120144

DECISION AND ORDER

The attached Stipulated Surrender of License is hereby adopted by the Board of Psychology of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on August 12, 2001.

It is so ORDERED July 13, 2001.



FOR THE BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
Martin R. Greenberg, Ph.D.

1 BILL LOCKYER, Attorney General
of the State of California
2 SANFORD FELDMAN, State Bar No. 47775
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, California 92101

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8 Attorneys for Complainant
9

10 **BEFORE THE**
BOARD OF PSYCHOLOGY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. W-194

13 MICHAEL KEVIN MCGEE
5095 Lambert Lane
14 San Diego, CA 92115

OAH No. L-2000120144

15 Psychological Assistant Registration
No. PSB 25328
16

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Complainant Thomas S. O'Connor is the Executive Officer of the Board of
22 Psychology. He brought this action solely in his official capacity and is represented in this
23 matter by Bill Lockyer, Attorney General of the State of California, by Sanford Feldman, Deputy
24 Attorney General.

25 2. Respondent Michael Kevin McGee ("Respondent") is represented in this
26 matter by attorney Brad Patton, whose address is 2777 Jefferson Street, Suite 200, Carlsbad, CA
27 92008-4598.

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3. On or about March 24, 1997, the Board of Psychology issued Psychological Assistant Registration No. PSB 25328 to Michael Kevin McGee ("Respondent"). The Psychological Assistant Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2002, unless renewed.

JURISDICTION

4. Accusation No. W-194, was filed before the Board of Psychology of the Department of Consumer Affairs, ("Board"), and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on Respondent on September 21, 2000, and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation Number W-194 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and discussed with his counsel the nature of the charges and allegations contained in Accusation No. W-194. Respondent also has read and carefully considered the Stipulated Surrender of License and understands the effect it will have on his ability to practice.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf and to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands that the charges and allegations in the
3 Accusation, if proven at a hearing, constitute cause for imposing discipline upon his
4 Psychological Assistant Registration.

5 9. Respondent admits that on or about November 13, 1997, he drove a
6 vehicle while under the influence of amphetamine and/or alcohol or the combined influence
7 thereof and did so in a manner that was dangerous to himself as alleged in Accusation
8 No. W-194, agrees that cause exists for discipline and hereby surrenders his Psychological
9 Assistant Registration No. PSB 25328 for the Board formal acceptance.

10 EFFECT OF SURRENDER

11 10. Respondent understands that by signing this stipulation he enables the
12 Board to issue its order accepting the surrender of his Psychological Assistant Registration
13 without further process.

14 11. Upon acceptance of the stipulation by the Board, Respondent understands
15 that he will no longer be permitted to practice as a Psychological Assistant in California, and also
16 agrees to surrender and cause to be delivered to the Board both his license and wallet certificate
17 before the effective date of the decision.

18 12. Respondent fully understands and agrees that if he ever files an application
19 for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
20 reinstatement. Respondent must comply with all the laws, regulations and procedures for
21 reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges
22 and allegations contained in the Accusation, Number W-194 will be deemed to be true, correct
23 and admitted by Respondent when the Board determines whether to grant or deny the petition.
24 In addition, respondent shall reimburse the Board its costs of investigation and enforcement in
25 the amount of \$2,057.76 prior to reinstatement.

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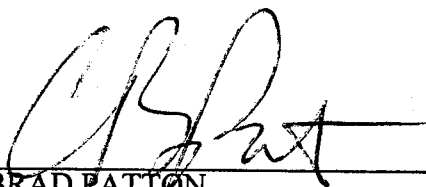
1 I further agree that a facsimile copy of this Stipulated Surrender of License and
2 Order including facsimile copies of signatures, may be used with the same force and effect as the
3 originals.

4 DATED: 5/28/01.

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8 MICHAEL KEVIN MCGEE
Respondent

9 I concur.

10 DATED: 6/5/01.

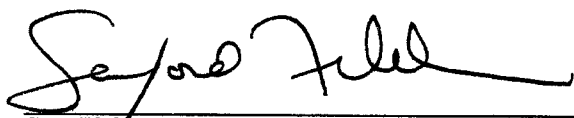
11
12 
13 BRAD PATTON
14 Attorney for Respondent

15 ENDORSEMENT

16 The foregoing Stipulated Surrender of License is hereby respectfully submitted
17 for consideration by the Board of Psychology of the Department of Consumer Affairs.

18 DATED: 6/8/01.

19 BILL LOCKYER, Attorney General
20 of the State of California

21 
22 SANFORD FELDMAN
23 Deputy Attorney General

24 Attorneys for Complainant

25 sf/c:\dat\stipulations\psy\mcgee.5.8.01
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Exhibit A:

Accusation, Case No. W-194

BILL LOCKYER, Attorney General
of the State of California
SANFORD FELDMAN, State Bar No. 47775
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, California 92101

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Telephone: (619) 645-2079
Facsimile: (619) 645-2061

Attorneys for Complainant

03/18
AMERICAN BAR ASSOCIATION
YOUNG MEN'S BOARD
OF CALIFORNIA
STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. W 194

MICHAEL KEVIN MCGEE
5095 Lambert Lane
San Diego, CA 92115

A C C U S A T I O N

Psychological Assistant
Registration No. PSB 25328

Respondent.

Complainant alleges:

PARTIES

1. Thomas S. O'Connor ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs.

2. On or about March 24, 1997, the Board of Psychology issued Psychological Assistant Registration No. PSB 25328 to Michael Kevin McGee ("Respondent"). The Psychological Assistant Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2001, unless renewed.

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1 (i) Violating any rule of professional conduct promulgated by the board and set
2 forth in regulations duly adopted under this chapter.

3 (j) Being grossly negligent in the practice of his or her profession.

4 (k) Violating any of the provisions of this chapter or regulations duly adopted
5 thereunder.

6 (l) The aiding or abetting of any person to engage in the unlawful practice of
7 psychology.

8 (m) The suspension, revocation or imposition of probationary conditions by
9 another state or country of a license or certificate to practice psychology or as a
10 psychological assistant issued by that state or country to a person also holding a license or
11 registration issued under this chapter if the act for which the disciplinary action was taken
12 constitutes a violation of this section.

13 (n) The commission of any dishonest, corrupt, or fraudulent act.

14 (o) Commencing January 1, 1999, until January 1, 2001, any act of sexual abuse,
15 or sexual relations with a patient or former patient within two years following termination
16 of therapy, or sexual misconduct that is substantially related to the qualifications,
17 functions or duties of a psychologist or psychological assistant or registered psychologist.

18 On and after January 1, 2001, any act of sexual abuse, or sexual relations with a
19 patient, or sexual misconduct that is substantially related to the qualifications, functions
20 or duties of a psychologist, psychological assistant, or registered psychologist.

21 (p) Functioning outside of his or her particular field or fields of competence as
22 established by his or her education, training, and experience.

23 (q) Willful failure to submit, on behalf of an applicant for licensure, verification
24 of supervised experience to the board.

25 (r) Repeated acts of negligence.

26 The board shall study and report to the Legislature on or before July 1, 2000,
27 concerning the efficacy of the prohibition contained in subdivision (o).

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1 5. Section 2964.6 of the Code states:

2 An administrative disciplinary decision that imposes terms of probation may
3 include, among other things, a requirement that the licensee who is being placed on probation
4 pay the monetary costs associated with monitoring the probation.

5 6. Section 125.3 of the Code states, in pertinent part, that the Board may
6 request the administrative law judge to direct a licensee found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 7. Section 2963 of the Code states:

10 A plea or verdict of guilty or a conviction following a plea of nolo contendere
11 made to a charge which is substantially related to the qualifications, functions and duties of a
12 psychologist or psychological assistant is deemed to be a conviction within the meaning of this
13 article. The committee may order the license suspended or revoked, or may decline to issue a
14 license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on
15 appeal or when an order granting probation is made suspending the imposition of sentence,
16 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code
17 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
18 setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

19 FIRST CAUSE FOR DISCIPLINE

20 (Use of Drugs In a Dangerous Manner)

21 8. Respondent is subject to discipline on account of the following.

22 A. On or about November 13, 1997, respondent was driving in a
23 vehicle in the City of San Diego while under the influence of methamphetamine and/or
24 amphetamine.

25 B. While so driving, respondent was operating the vehicle at a high
26 rate of speed, was weaving in and out of traffic and cutting off other vehicles.

27 Respondent's driving almost caused several accidents.

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1 9. Respondent is subject to disciplinary action under section 2960(b) in that
2 he used a controlled substance or dangerous drug to an extent or in a manner dangerous to
3 himself and/or another person, or the public, as set forth in paragraph 9 above.

4 SECOND CAUSE FOR DISCIPLINE

5 (Conviction of a Crime)

6 10. Respondent is subject to disciplinary action under section 2960(a) in that
7 he was convicted of a crime substantially related to the qualifications, functions and duties of a
8 psychological assistant. The circumstances are as follows:

9 A. Following the driving set forth in paragraph 8 above, on or about
10 November 24, 1997, in *People of the State of California v. Michael Kevin McGee*, San
11 Diego Municipal Court Case No. M-742234, respondent was charged with one count of
12 driving under the influence drugs or alcohol in violation of Vehicle Code section
13 23152(a), with one count of being under the influence of drugs in violation of Health and
14 Safety Code section 11550(a) and one count of driving without a valid driver's license.

15 B. On or about September 8, 1998, respondent entered a plea of guilty
16 to driving under the influence of drugs or alcohol in violation of Vehicle Code section
17 23152(a). The remaining counts of the complaint were dismissed. Respondent was
18 placed on summary probation for three years with terms and conditions including actual
19 custody of 180 days and a fine \$1,300.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Board of Psychology issue a decision:

23 1. Revoking or suspending Psychological Assistant Registration
24 No. PSB 25328, issued to Michael Kevin McGee;

25 2. Ordering Michael Kevin McGee to pay the Board of Psychology the
26 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,
27 the costs of probation monitoring; and,

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: September 21, 2000.

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6 THOMAS S. O'CONNOR
7 Executive Officer
8 Board of Psychology
9 Department of Consumer Affairs
10 State of California
11 Complainant

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FILED
STATE OF CALIFORNIA
BOARD OF PSYCHOLOGY
SACRAMENTO Sept 21 20 00
BY M. L. Anderson ANALYST

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation Filed
Against:

Michael Kevin McGee

No. : W194

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22 Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Michael Kevin McGee
5095 Lambert Lane
San Diego, CA 92115

7099 3400 0002 4471 5210


Brad Patton, Esq.
2777 Jefferson St., Ste. 200
Carlsbad, CA 92008-4598

Sanford Feldman
Deputy Attorney General
110 West A St., Ste. 1100
San Diego, CA 92101

Each said envelope was then on, July 13, 2001, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, July 13, 2001, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Analyst